



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY	)	MDL No. 1456
AVERAGE WHOLESALE PRICE	)	Civil Action: 01-CV-12257-PBS
LITIGATION	)	Judge Patti B. Saris
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THIS DOCUMENT RELATES TO	)	
01-CV-12257-PBS and 01-CV-339	)	
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**AFFIDAVIT OF DENISE M. KASZUBA**

STATE OF NEW JERSEY )  
                          ) ss:  
COUNTY OF MIDDLESEX )

Denise M. Kaszuba, being duly sworn, deposes and says:

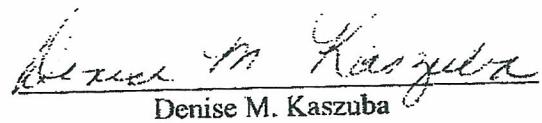
1. I am associate manager of pricing support in the department of Pricing Institutional Operations of Bristol-Myers Squibb Company ("BMS") in Plainsboro, New Jersey. Since the merger of Bristol-Myers and Squibb in 1991, I have been responsible for communicating BMS's wholesale list and direct list prices to customers and others, including industry publications such as the Redbook, First Data Bank and Medispan (the "Publications"). No prices would have been communicated by BMS to the Publications during that time period without my knowledge.

2. To the best of my knowledge, BMS has never communicated average wholesale prices ("AWPs") to the Publications. Prior to August 2001, BMS communicated a wholesale list price ("WLP") and a direct list price ("DLP") for each drug to the Publications, and the Publications calculated their own AWP based on

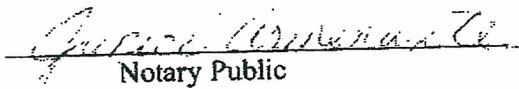
whatever mark up factor they deemed appropriate. Beginning in August 2001, BMS began to send a single list price to the Publications, to which the Publications applied a mark up factor to arrive at an AWP.

3. In 1992, I was directed to send the attached document to the Publications. That document states, in substance, that the mark up factor for determining AWP on BMS oncology drugs should be changed from 20.5% to 25%. The Redbook made that change, but First Data Bank and Medispan did not make that change. To the best of my knowledge, that is the only time BMS has made such a request, and given my position in the company, I would have known about any such request if it was made.

4. In 2002, First Data Bank changed the mark up factor that it used to calculate the AWP for certain drugs to 25%. BMS did not ask First Data Bank to do that, and we received no advance communication from First Data Bank that it was going to make that change. BMS first learned that First Data Bank had made that change when a customer pointed it out, and I was asked to communicate with First Data Bank to determine what had happened. I had a telephone conversation with Kay Morgan of First Data Bank in which she informed me that First Data Bank had decided to change the mark up factor on its own. The Redbook did not change its mark up factor at that time.

  
Denise M. Kaszuba

Sworn before me this 18<sup>th</sup> day  
of February, 2004

  
Notary Public

JANICE ARMENANTE  
NOTARY PUBLIC OF NEW JERSEY  
Commission Expires 12/31/09



Bristol-Myers Squibb Company

Pharmaceutical Group

P.O. Box 4500 Princeton, NJ 08543-4500 609 243-6000

RECEIVED AUG 10 1992

Wendy Jones  
MEDISPAN  
8425 Woodfield Crossing Blvd.  
Indianapolis, IN 46240-0930

Dear Ms. Olayan

Effective immediately, Bristol-Myers Oncology Division products factor used in determining the AWP should be changed from 20.5% to 25%. This change should not effect any other business unit of Bristol-Myers Squibb Company.

If there are any reasons why you cannot proceed with this request, please contact me at 609-243-6986.

Sincerely,

Denise M. Kaszuba  
Sr. Pricing Analyst

Terri,

How is the survey going? Please advise - Denise wants a new AWP printout.

Thanks,  
Wendy.

BMS:5:000012

F.3/3

ALG 19.92 11:17AM MEDISPAN